

COMMITTEE ON ADMINISTRATION/INFORMATION SYTEMS

February 13, 2006

5:30 PM

Chairman O'Neil called the meeting to order.

The Clerk called the roll.

Present: Chairman O'Neil, Aldermen Smith, Forest, DeVries

Absent: Alderman Lopez

Messrs.: J. Lahr, J. Franks, D. Clay, K. Buchholz, K. DeSchuiteneer,
L. Applebaum

Chairman O'Neil stated for the record Alderman Lopez is dealing with a family situation down in Florida so he will not be with us this evening.

Chairman O'Neil advised that the first purpose of the meeting is organizational in nature, and requested the Clerk to provide a brief overview regarding typical issues addressed by the Committee.

Deputy City Clerk Johnson stated the Committee shall have jurisdiction over policy regarding licensing, Information Systems and the general administrative affairs of the City and such other matters as may be referred by the Board of Mayor and Aldermen.

Chairman O'Neil stated out of fairness to the people for Item 6 maybe we could take that first so they don't have to hang around.

Chairman O'Neil addressed Item 6 of the agenda:

Communication from Joseph Lahr, Executive Director of MCAM TV 23, providing a detailed list of expenditures associated with their new facility.

Alderman Smith asked on your financial statement is that solely done by you with no input from the City even though we give money for your program through Comcast.

Joseph Lahr, Executive Director of MCAM TV 23 stated we contract with an independent accounting firm to take care of that information. As the Executive Director I do write checks, log them into an accounting system and make them available to the full Board and to our accountants on a monthly basis.

Alderman DeVries asked do you run an independent audit on your books through your Board of Directors.

Mr. Lahr answered as far as our books go we have only been doing it for three months so we haven't done anything beyond that point yet but it is something that does have to be done by a public accountant; yes.

Alderman DeVries asked and is that budgeted.

Mr. Lahr answered absolutely.

Alderman DeVries asked and when you do run your yearly audit would you be willing to share your management letter and the audit results with this Board.

Mr. Lahr answered absolutely. In fact we are bound to do so by the contract between MCAM and the City.

Alderman DeVries asked are you 100% complete and up and running. What is your status?

Mr. Lahr answered well we are up and running and we are bringing in new producers all of the time. We are not 100% complete. We still have a main portion of our studio that we have yet to complete. We have a secondary studio that is 100% complete.

Alderman DeVries asked and is that dependent upon independent fundraising efforts on your part.

Mr. Lahr answered it can be dependent on that depending on the level of technology we wish to bring in, however, we were given a grant from the City and we have been utilizing that in our restricted fund account.

Alderman DeVries asked and that is the grant that came from Comcast dollars.

Mr. Lahr answered that is correct.

Alderman Forest moved to receive and file. Alderman DeVries duly seconded the motion. Chairman O'Neil called for a vote. There being none opposed, the motion carried.

Chairman O'Neil addressed Item 4 of the agenda:

Discussion relative to Business License application of Electra Nightclub at 34 Fir Street.

Chairman O'Neil stated that the City is in receipt of correspondence raising concerns in the application by Electra. The Committee believes that it is in the public's best interest to allow those concerns to be addressed in a public forum. The Committee would like to hear the concerns and will allow the applicant to address those concerns. We would like the applicant to explain the business plan for Electra on various items and with that I would like to turn it over to the City Solicitor for some comments.

Thomas Clark, City Solicitor stated I just want to make sure there is no misunderstanding here by anybody. Under the ordinances it is the City Clerk's Office that will grant or deny the business license. The item is on the agenda tonight because of concerns raised by various parties and we want to give people the chance to express their concerns, but the Committee itself will not be voting this up or down.

Alderman DeVries stated I have a question for the Solicitor if I might. We won't be taking a vote on this, I understood that, and also we are not able to put actual conditions on this. It is the City Clerk's Office that deals entirely with the licensing process?

Solicitor Clark answered it will be the City Clerk's Office in conjunction with the other various departments that will place the conditions on the license.

Alderman DeVries stated and one final comment if I might is this discussion here today is very useful because it kind of puts into perspective the intention of this particular property owner. Is that correct?

Solicitor Clark answered yes it is.

Chairman O'Neil stated we will first, before we have the applicant come up we will hear from neighbors and businesses in the area. I would ask if you can to please limit your comments to three minutes. When you do come up, would you please identify yourself and your address for the record. We will take all of that information and then we will ask the applicant to come up and hopefully lay out

his business plan as well as to address some of those concerns. So if you would please raise your hand, come up and please just speak directly into the microphone.

Robert Turney, Executive Director, Manchester Neighborhood Housing Services, 20 Merrimack Street, stated:

I am here this evening to speak on behalf of the residents of the Manchester NHS property located at 1382 to 1470 Elm Street concerning the proposed nightclub at 34 Fir Street. It is our understanding that the proposed use of this property is permitted under the current zoning ordinances and we're not opposed to a legitimate use of this property. As residents in close proximity to the property, however, we are concerned about the effects and negative impacts of such an establishment if it's not properly managed. Given the level of residential use in this vicinity, we encourage the sensible operation of the nightclub to prevent any disturbances to nearby families. Our units house young families who get up early to go work, get up early to go to school, and because these units are located downtown, our families use the back alley and the sidewalks for recreation areas. So noise, trash, loitering, and vehicles would all be a serious problem for these folks if not managed properly. I've been told by the owner that he is a very strict manager and takes his operation seriously, specifically in the area of security and obviously I feel that this is very important given the size of this proposed establishment and the location that it's in. We recognize that Manchester's downtown is growing and becoming a destination for visitors and it's not our intent to discourage the economic prosperity of the City, but we do expect nothing less than the highest standards possible from this management and from this club ownership.

Rich Tangolous, 98 Hollis Street, stated:

We are about a block over from the Fir Street location. I would like to echo the sentiments of the gentleman right before me, but another voice doesn't hurt. They are going to be applying for this application and probably establishing this business, which is perfectly reasonable. Our concerns are simply quality of life, noise, parking. We have had issues of parking in our area before and I think we just want to make sure that we don't have more traffic coming through our streets, which are actually mostly private and so we can sleep at night.

Alderman DeVries asked Mr. Tangolous I was wondering if you might elaborate for me. You said that there have been issues with parking before and if you would like to elaborate on that. Is that resident nighttime parking issues or daytime business use?

Mr. Tangolous replied actually the problems we have been having mostly were with regard to the Amoskeag Place development. I know we have been working with you guys on addressing that.

Alderman DeVries asked in the area directly surrounding this particular nightclub have you seen the extra on-street parking issues...are there open spaces at night that you're aware of or is that a nighttime issue for you as well.

Mr. Tangolous replied around us there usually aren't too many. It closes up in the evenings.

Bill Blanchette, Hollis Street stated:

I am also a resident of Amoskeag Terrace Condominiums, which is on Hollis Street adjacent to this proposed facility. As both other gentlemen said, I don't think anybody living where we do objects to a legitimate and appropriate use of the City area for which it is zoned. Parking has become a real concern for us. With the building of Manchester Place and conceivably 300 tenants, yes they have parking in their garage, however, they all I'm sure have guests and friends who are going to parking. That, coupled with 500 or 600 people frequenting this nightclub, is going to make parking in our area absolutely impossible. We unfortunately have one parking space allotted to each unit at Amoskeag Place, and everybody having more than one vehicle has to park on the streets and it is kind of a race against time as it is now to get a place to park for the evening. Additionally there is a large parking lot behind the proposed club. The Manchester Pawn Shop is facing that parking area. It's very dark in the evening and it is going to be an ideal place for trouble to brew. I would certainly hope that the owner and management of this new club have plans to address that particular area. It is going to be a great spot for problems to develop in addition to our very own courtyards, which are somewhat dark in the evening. They are lit by a couple of lampposts, but again it would be a good spot for all kinds of criminal activities to take place, if you will, and if somebody so desires.

Carolyn Bellefeuille, Hollis Street stated:

I am also a resident of Amoskeag Terrace. I would like to reiterate that parking is definitely a big problem in the evening. People come home from work and they have no place to park. We each have only one parking space in our private alleyways, but I would like to describe to you in our community is that we have alleyways that are private alleyways that belong to our community. We have them marked with no entrance. It seems to have no effect on people going through the alleyways. The alleyways are places where our children and our grandchildren play and our community is a quiet community where we enjoy being out in the evening together in the warm weather and enjoy sleeping at night if we can. There is always a problem already with Envy up on Elm Street across from us. When

that bar gets out, many times I am not able to sleep. In the summer any time there is good weather I can never open my windows to have air in my bedroom because the noise once that bar gets out, and the foul language, and the fighting, and the Police sirens that go on, is a great disturbance to us. And then there is the litter all over - the beer cans and the bottles. I hope I am not speaking out of place, but there are people standing urinating on our buildings after they get out of these clubs. It has just been a tremendous wrong to our community and I know the management of this club intends to, and I'm sure he has had experience with so called managing his clubs correctly, but how is he going to control the behavior of the people after they leave the club? Our alleyways are now unjustly used as a quick passageway through to get up over the bridge and get onto the West Side. How is he going to stop people from jutting through, people who are intoxicated, from jutting through our alleyways? I can't tell you how many times our cars, and when our cars are parked on both sides in our private alleyways, there is not a lot of space to go through. People come through there at night that have been drinking or that have been in bars, even during the day racing through and they hit our cars and then if they get through one end and they can't get out, they back up...we can barely get through going straight. Somebody trying to back up through there and get out when they're not supposed to be there...they have hit our cars over and over again and there we are with the \$500 deductible that we have to pay because it is hit and run. So I would like to know how the City is going to help us to keep our community and protect us from that.

Dennis Gagnon, 1225 Elm Street stated:

I am the owner of LeMay's Brothers Jewelers. Our business was established in Manchester and we've been in that location since probably 1925 and it has been a good location. Beginning in the mid 1980's we have been plagued with broken windows and all types of vandalism. You probably saw the article in the newspaper, to the tune of approximately \$16,500. I would like to ask each and every one of you, do think that's good? I'd like to invite each and every one of you some night on a Friday or Saturday night to come and bring your lawn chairs, sit in front of the store and see what goes on. It would be a rude awakening. We've been there countless times. In the past 15 or 16 years I think we've averaged approximately 204 alarms that we have had to answer to. I think that is highly unusual. I just don't see what a club with that capacity downtown brings to the downtown area and to the residents. This is beyond my belief. If you can answer that for me I might change my mind. I doubt it. We've also been promised many times by managers of the club on the corner they will take care of all the problems, but as we well know that hasn't been done.

Alderman DeVries asked the problems that you have had over the years with vandalism, do you find that that is in the rear of your building or the front Elm Street façade.

Mr. Gagnon replied some at the rear but mostly to the front on Elm Street. The latest event we had was Christmas Eve morning when we had two broken windows. I believe a young lady was thrown out of the Envy club and took her frustration out on us. We see this going on in the neighborhood everywhere. Graffiti, urinating on the building, vomit when we come in in the morning on the sidewalk, beer bottles, bracelets that clubs put on their patrons discarded everywhere. We have to clean up every morning. I also see City people cleaning up the Pearl Street parking lot every morning. Why should they have to do that? Why do we need to have this continue? It is just not a positive thing for the City.

Alderman Forest stated Dennis just to remind you, I know I responded if you remember on some of those calls years ago, and it has always been an ongoing problem, not because of the Envy that is there, which is new compared to when I was there. It is a problem that is difficult to control and I think that is why we're here tonight to make sure that the new owners can do that. Not that we are going to help you with the problems that are happening now but...

Mr. Gagnon stated exactly, but we want to make it known that we're frustrated. Why should this keep going on? I don't believe that's what the vision of downtown Manchester should be. I don't think that is revitalizing downtown I guess is what my point is that I'm trying to get across.

Karen Angela Carter, 1267 Elm Street stated:

I have been a resident for six years at 1267 Elm Street. It is above Steve's House Restaurant, adjacent to Child Health Services. We already have plenty of nightclubs in that area as you are well aware of. We have had so much violence, so many stabbings, shootings, broken windows out front and in the back. My landlord has eight apartments upstairs at 1267 Elm Street for people with emotional issues and developmental disabilities. I'm the former deputy director to On the Road to Better Living, which with the merger from A Way to Better Living, is the oldest non-profit drop in center in the country. Formerly the President was Mrs. Walter Stiles and I was the Deputy Director there and Vice President prior to that. The problems we have had have been terrible over the last two years. I live upstairs and four of my windows face Elm Street and one faces Orange Street. We have young people coming in from out of state with guns in their back belts. We had a neighbor in my building housing a woman named Star Parish who was picked up in Laconia. We have people living in the basement on Orange Street. I came to this Board...well actually it was another meeting probably the Zoning Board a long time ago and I that Mayor Baines took the time to come out at two o'clock in the morning once. He was appalled. I have been hit over the head. We have had to board up, my landlord has, between Child Health and Steve's House Restaurant in the back. I know all of my neighbors. I have

been a resident here for almost 15 years. I have never ever seen our community this way and I'm asking you to please not just try, Alderman Forest, but remember that we have seniors and children in this community. We may be poor but proud from Bridge Street up. We have the North End, Verizon and businesses close. How many times will we have to suffer? Seniors don't have any other low income housing to live in.

Claire Durress, Kidder Street stated:

I am a resident of Amoskeag Terrace on Kidder Street and I would like to just reiterate what has been said here tonight because it is very upsetting for us as tenants. I moved to Amoskeag Terrace about a year and a half, almost two years ago, and it was a lovely community I thought when I first moved in. It still is for that area, but I discovered that the first warm night that we had I could not open a window in my condo because of all the noise coming from Lava at the time and from Envy there is noise, there is swearing, I mean it's just unbelievable what we have to put up with at night. I have my grandchildren over on a regular basis. They are not allowed to go out if I'm not with them, especially at twilight during the summer because of all the traffic running through...I almost got run over the other day. I'm telling you. You can ask the postman. I thought I was going to really lose it because someone almost hit me just speeding through our alleyway and at night there isn't any parking. The clubs take over and if you're out and you come in at 9 PM or 9:30 PM and you have a second car at your condo, you cannot find a place to park. The noise and the congestion and I know my daughter is 40 and she has been solicited twice walking from Elm Street to my house with people hanging around just the area we're talking about and there is absolutely no way a club owner can guarantee that this is not going to happen more and more and more if this is allowed to open with 500 to 800 people. I've seen two reports in the newspaper. How can you control what happens when they leave the club? We've seen what's happened at Omega. We've seen Club Liquid. We've seen all of these places. This is not the vision of Manchester that people have if they're looking to better what's happening in the City. This is just a hindrance. It's getting to be known that this is the place to come if you want to have it easy and you can just do whatever you want and that is what it is coming to. I don't know if there is anyone here from the City Clerk's office tonight because obviously they are the ones making the decision and it would be nice if someone were here to hear our complaints and our views.

Chairman O'Neil stated there are several staff people here from the City Clerk's office.

Alderman DeVries stated you mentioned a Club Lava that I'm not familiar with.

Ms. Durress replied that was there...it was just in this exact location.

Mayor Robert Baines, 70 Rosemont Avenue stated:

I felt compelled to come here this evening to give my perspective on this issue and I recognize that the City is in a very difficult situation because it is an allowable use and people have a right to do business in our city but it also goes back to some of the comments that were made by people earlier about the vision of our City and the vision of our City is not one that is strewn by nightclubs and bars although they certainly have a place. The vision that we have of the City is a delicate balance we have and at the foundation of that, the creation of that delicate balance are responsible tenants and responsible business owners and without that this business and I wish them well in this endeavor and that they are responsible business owners because when we have a situation where people who come in and establish a business number one do not have a long term business plan, that they're plan is make a lot of money in a short period of time and then move to some other location, which is part of the operation of some establishments...I am not saying this one is going to be like that, but that is a concern that I do have. That we have worked very hard in our community to create a delicate balance downtown with really nice eating establishments, dining opportunities for people of all ages, a safe environment is critical, and when we try to do that we also create an environment where people feel comfortable living downtown. I think that is what you are hearing right now. We worked very hard during the six years that I was mayor to create a strategy that brought people to live downtown, because if you're going to vibrant city, the foundation of that is going to be people who are living in the downtown creating a seven day city with commerce and opportunities for a lot of people. So my appeal today is number one, to you as the Board of Mayor and Aldermen to be vigilant about this situation, to be very careful about licensing in a ballroom situation bringing that number of people into this very delicate neighborhood. I say delicate from this perspective. The delicacy is established because of the intricacy of people who have created homes in there for a long period of time plus new establishments such as the Bridge and Elm development, which could come crashing down economically unless this delicate balance of responsible business owners is in place. So I urge all of the people involved with the fight over the decisions to be very diligent about it. I appeal to the owner of this establishment, and by the way we worked very hard to bring the Massachusetts College of Pharmacy downtown and they are becoming increasingly frustrated. I don't speak for them certainly, but I know I worked with them very hard over the past year to keep them focused and downtown despite some of the inappropriate activity and illegal activity that was taking place in that neighborhood with the previous establishment and if you're going to have that delicate balance with responsible business owners, people living downtown, having college people feel comfortable in the environment where they come to learn, a college like the College of Pharmacy that wants to grow and expand and become a very integral part of the community, they have a long term business plan

and that's what you have to be very diligent about and listen to the voices from the neighborhood because the people who live in this area are there when all of us are sound asleep in different parts of the City. They will have to accept what is decided in the various agencies in City government, but they do not have to tolerate it if we have a vigilant government where we have to take strong stands to ensure that the quality of life that those of us expect in this great City is maintained and that is the responsibility of everyone that sits in this hall - to preserve the quality of life for all of the citizens of the City.

Jody Reese, 49 Hollis Street stated:

I run the Hippo Press and we are at 49 Hollis Street and we are directly under what will be Electra the nightclub. I'll keep my comments very brief, but I met with the owner. There is plenty of parking in our parking lot and abutting parking lots. We both rent from the same landlord. I don't think street parking will be much of an issue. There are some lighting issues in the back but those are actually more likely my responsibility not the clubs and we'll address those because we want to keep those areas well lit around the front of our business, which is on Hollis Street. But I wanted to address a few comments the Mayor made. I think one of the reasons why we've seen people want to move downtown in the last few years and I was a resident at 15 Stark Street for three years and now I live on Walnut Street, is because of the nightlife. There is a fine line that we need to walk between limiting it too much and letting it get out of hand. I think with good policing we can make sure the nightlife doesn't get out of control, we can cut down on broken windows and trash and those sorts of things. I think it is important to keep in mind that these types of establishments are why folks are coming downtown. Now we have Manchester Place going up on the corner and they are looking to rent that. Who is going to rent? People who want to go to the local clubs and restaurants, who want to be in walking distance to these amenities. This is why generally people live downtown and it would be silly for us now to I think reverse and go in the other direction and begin to limit these types of businesses.

Alderman Smith asked Jody how many parking spaces do you have on your lot.

Mr. Reese answered our lot has I believe 45 and there is a lot below us has another 150 or 200 and there are an additional two lots that have I think between them about 600 spaces. I think in total we have maybe 800 spaces.

Alderman Smith asked do you own them directly or who is the owner. I'm very familiar with these.

Mr. Reese replied it's a very strange property. It sort of spans a block. Dow Street to the north and Hollis Street to the south. Fir Street, which runs behind the Mass College to the east and to the west it is Dunn's Furniture. It's sort of this

sprawling complex. The Hippo Press rents space there as does Martinetti of course Electra and there is a pawn shop as well. In front of our location we have about 45 parking spaces. There is another lot down below, which I think folks rent from 9:00 AM to 5:00 PM who work in the Brady Sullivan building close by, but that empties out at 5:00 PM. Our lot empties out around 6:00 PM. The way the lease is structured those spaces basically then become available for Electra to use. I understand the concerns...I've had to park downtown for years on the streets and I'm not thrilled by the policies of this Board about ticketing, especially in snow emergencies and other times. The odd/even parking is very difficult for downtown residents but as far as Electra goes there is plenty of off-street parking.

Alderman Smith stated Hampshire Lane one side is a business there then you have the three tenement apartments and they park in the parking lot. It is for tenant parking only. Where are you going? Way down to Canal Street for your parking?

Mr. Reese replied we park right in front of our office. It is sort of strange, but if you go down maybe ten or fifteen feet there is another large lot that is sort of hidden back in there that looks out across Dunn's Furniture and what used to be Sassafras, which is now Milton's Milltown Grill. There is also a very large parking lot in the front of the building, which would be I think near Hampshire Lane where Fir Street continues on. That's also a good-sized lot.

Alderman Smith stated the reason why I'm going along this avenue is Amoskeag Terrace. They got hit on Kidder Street naturally with Manchester Place, now on Hollis Street at the other end it is going to be parking. People are going to park right out there on Hollis Street, which they are able to, but they won't be able to have anybody come in to see them because I think you are familiar with Amoskeag Terrace. It is a private way and they have a lot of problems there and their quality of life has really been destroyed. I read an article back around five or six years ago that it was one of the best places to live in the state of New Hampshire and now they are getting squeezed in and I think parking is definitely a problem.

Mr. Reese stated I would follow up that I think it is a great place to live. I think that the property values indicate that it is a good place to live. I believe five or six years ago a unit there went for around \$100,000 and now they are around \$225,000 to buy a unit there. I think that is a testament to folks wanting to live downtown and again we do need to keep a balance here. When I moved downtown I did realize that part of the challenge to living downtown was on street parking partially in jest, but I beseech you to take into account people who live downtown when making parking rules in the City. The odd/even parking is extremely difficult on Hollis for example. Parts of the winter you limit people to parking on just one side. I don't think though that the club will impact parking on

that street simply because those folks at Amoskeag Place will have already parked on the street by the time the club opens. Those patrons won't be able to park on the street. I think at that point they'll be parking in the lots.

Alderman Forest stated Jody I want to throw a little monkey wrench in your little parking situation. You're going to a club and use common sense now when you give me an answer. If you are going to a club, you're going to drink and dance and you are going to stay there for a little while. You certainly aren't going to park a block or two away. The first place you're going to go is to the front of the club and if there's a place you're going to grab it. So there may be 800 spots around the club, but the average person that is going to this club is going to find a place in the front. So they're going to fill up all of those spots on Hollis and Kidder and Dow Street, if there are any, long before they fill up those lots.

Mr. Reese replied I just don't think that they will be available to fill up at that point. The residents have already parked. I'm guessing that the club won't get going until 9:00 PM or 10:00 PM so that is when you are going to have folks coming into the neighborhood and I don't think there is much of an option but to park in those places.

HB Blanchette, 64 Hollis Street, stated:

One of the concerns that I have is a nightclub of that size has to have a bar of a lot of people and I am not sure that Manchester itself will draw those people who will go. If you look at what has been going on with some of the other clubs, a draw has come from out of state - Massachusetts. A lot of these people can't go to clubs in Massachusetts. They have been asked to leave clubs because they cause problems. I have a concern that we are bringing more problems to our area along with the other clubs and the other thing too is once we're home we should have the right to go out. Some of us work 3:00 PM to 11:00 PM. You come home at 11:00 PM and where are you going to park if the club people are parking there? So we have to look at the whole picture but my concern is where are these people going to come from and what trouble are they going to bring.

Dick Duckoff, 380 No. Bay Street, stated:

My primary concern is for the people that live in the homes nearby be they condo owners, which is nothing more than a legal form of ownership, or renters. In all cases it is their home and it is inevitable to me that they are going to find, as our business owners do, more litter that they are going to have to pick up. Not just more traffic but more litter and more noise. It is inevitable that a club with a DJ is going to be making a huge amount of noise in that facility. It's beyond my imagining that some of that bass sound isn't going to leak through the building some way or other. It is beyond my imagining. As far as the Amoskeag Terrace is concerned, when I have eaten right there at Milton's I must say that when I want

to take a left hand turn going south on Canal Street, I myself once or twice I confess, have gone through those alleys to get on Kidder Street, which allows me to...Kidder Street goes straight through Canal Street so you can right or left or down to Commercial. You can do anything. I foresee that frankly for Amoskeag Terrace it is going to be an absolute nightmare. What I would hope would happen is this. Indeed it is a delicate balance between attracting business and having a law-abiding community, but what has happened is inevitable. When a business has a right to expand, advertises out of state, brings in people from out of state, you have people that aren't even remotely invested in Manchester and what we have is a wild, wild west atmosphere. You remember those old Westerns where there were shoot-ups? Well we have had shoot-ups in Manchester. We have had knifings in Manchester. We have had a lot of things that we never thought would come to Manchester, and I think the only remedy frankly is this. I think it is police diligence and I think it a recognition that the licensing, be it from the State or the City, is known for what it is. A license is fair permission. It is not an absolute grant of authority. A license is something that is granted and can be revoked. It is a bare permission. Until the State and City take control, and there is no other way I can see that can happen but until the State and the City take control we can't moralize and say we want people with a certain kind of behavior to enter our City and not others. You can't do that. If there is an infraction of rules and regulations that are really breaking the law, be it a noise ordinance or any other kind, that is the only way it can be handled. I can't possibly see anything else. To me the end of the story was really Omega. That is the end and this is an epilogue, but I think that we have turned a page and I think that the future is rosy. I just hope that there is diligence on everybody's part.

Donald McClintock, Amoskeag Place, stated:

I wasn't going to speak but Jody mentioned a couple of things that I just want to talk about. He talked about all this available parking and he talked about it being off of Hollis Street, which is where he has his business, to Dunn Furniture down at the bottom. That is nice that they can all get off the street, but when they are all coming out of those clubs after drinking and having a good time, we are the prime target for them to get out of the City, over to the highway and to get going. We have put up with enough at Amoskeag Place. There were some promises made to us and I won't go into too much when Bridge and Elm was built and we are still in litigation trying to get some things worked out on that. They have a big parking garage there and these people will probably park over there even though they don't need to. I am just really concerned that the traffic that is going to be generated will come into our alleys at night. As everyone else here has mentioned, it is going to cause us a major problem. We are going to have accidents there. We as a community are trying to resolve how can we stop some of this. Do we put gates up? Are they going to go through the gates? Probably, but we're not sure

what to do. I think that you have heard enough tonight that you should be able to make some recommendation and that is all I ask.

Deputy Clerk Matthew Normand stated I believe Mr. Franks and his business partner and general manager are all here and they would like to come up and address the concerns of the residents.

Jack Franks, PO Box 998, Walpole, stated I am the owner of Electra Nightclub in West Lebanon, NH and Denny's Street Bar and Grill in West Lebanon, NH.

Peter MacDonald stated I am a partner with Jack in the Electra Nightclub in Massachusetts.

Dana Clay stated I am the general manager of the Electra Nightclub in West Lebanon currently that will be hopefully moving soon the Manchester, NH.

Chairman O'Neil asked Mr. Franks do you have any prepared comments that you would like to make either based on prior conversations or items you heard this evening.

Mr. Franks stated first of all I'd like to thank the Board for the opportunity to come here and speak tonight and to state that I do believe that everything that everyone has said tonight is legitimate and valid, not that you need validation from me, but they definitely need to be heard and I take everyone's concerns very seriously because at the end of the day if people aren't happy, there is a problem. We want to do our best to address all of those concerns that we can so I would like to let everyone know who does have concerns that we have an open door policy in regards to any concerns or questions anyone might have at any time, at any juncture, so anyone else that has concerns further on down the road feel free to please stop by and let us know those things so we can work collectively together to correct those actions. I would like to talk a little bit about myself and about my experience in this business. I have been in this business for 19 years. I started in the nightclub and restaurant business when I attended Embury Little Aeronautical University in Daytona Beach, Florida, a military college. I started down there at a nightclub that held 8,000 people and I got a pretty good education with regards to how to manage that many people at one time. I'm a New Hampshire resident. I live here. I have roots in the community in Walpole. Not necessarily in Manchester, but definitely in New Hampshire. I have got plans actually for two other businesses in town already if this works out well for us and we can take the money that we have made here and reinvest back into the community with two other places and those would be restaurant ideas that we have already on the drawing board and I think that it is important for you folks to know that. We are not just one of these businesses that's going to come into town and make money

and leave. I would like the Board and everyone here to know that we specifically came to town because we saw an opportunity. The opportunity was, with regards to the nightclub business, that we have carefully monitored and watched everything that has gone on down here over the last 18 months and that is why we came down. We have got a really good formula to running nightclubs, to running restaurants, to running bars and we take our jobs very seriously. We are very good at what we do and I know that those are things that we need to prove to you folks in order to make good on what we are talking about here tonight but we came down here specifically because we saw an opportunity to build a place that was very well managed, very well run, and very well secured. At the end of the day if people are getting shot, people are getting stabbed, people are getting hurt, and people's quality of life is suffering, there is no amount of money in the world that you can make to justify that. I know that and so do my partners and business associates. So again, just to cap that, we came here specifically because we saw an opportunity to build a well run, well maintained location in this town. That is why we came. We spent seven months renovating this building. We spent in excess of \$750,000. We have hired 63 people to date and that is 63 people that are waiting to start employment there. Again, I know that this is not an end all for most of the people that are going to be working there. I know that it is a stepping stone as it was for me when I was in college. I bartended and made very good money and was able to get an education through bartending because I didn't have a lot of time, so I do know that this isn't an end all for most people. I know that it is a stepping stone but to be able to provide an opportunity for people to do that is a good thing as far as I'm concern. I have three partners in this particular venture, all with extensive law enforcement backgrounds, one of which is with me this evening, Peter McDonald from Massachusetts. He has 19 years as a police officer and is still current in Massachusetts. He is also a tactical team platoon commander. The other two are detective State troopers with 15 years experience apiece. The number one concern that I have as a business owner in any business that I have ever owned in the nightclub or restaurant business is that of security. And again, going back to what I spoke a couple of minutes about with the opportunity down here, I saw an opportunity and that was specific with regards to management and security. The general manager, Dan Clay, here to my left has been with me for over three years and we have worked closely over the last three years and I have been grooming him to step up and take over a place like this. He has 15 years experience as well in this business and does a fine job at our other location and I'm certain he will do an outstanding job down here. We plan on having a non-smoking facility so in regards to some of the questions regarding noise and the former Lava nightclub, I do know that a lot of the noise came from them opening up their rear doors towards Amoskeag Place and, therefore, allowing a lot of the bass and a lot of the sounds to get out. With a non-smoking facility and not having to open our doors, we plan on keeping them closed and then not allowing a lot of the noise outside. I think having a non-smoking facility

will also attract hopefully an upper scale clientele. That is not to say people who smoke are not upscale, but I think that that is the image that we are trying to promote here. We won't be advertising in Massachusetts. We won't be looking to attract that crowd. In fact, we will be discouraging that element that has plagued the City for as many months as it has from coming in. We are going to have a strict dress code without any exceptions to the rule on that. With regards to security, we have security manuals here with us this evening. We also have parking diagrams to show you folks where we do have parking. With regards to parking, we do have 321 spaces that are available to us. With an average of 2.5 people coming per car, that leaves over 700 people that theoretically could park in our designated parking areas and come to our club. With regards to security on the peak business hours, we plan on staffing 20 security personnel that will be trained by us and all of these individuals will be radioed. They will all have communications and the ability to talk from wherever they are. We spent in excess of \$10,000 just for communications for our security staff. The guys that are outside will all have security vests on, will have flashlights, and will be able to communicate with one another. The way I have set the security up is that we have five security personnel in the parking lots manning those parking lots because they are our parking lots and we are responsible for those parking lots because they are part of our lease. We will have five security staff on the inside of the nightclub entranceway securing the entranceway to the nightclub and we will have a total of ten on the inside. Granted these are during the busy hours. On off peak nights when we aren't quite so busy we will schedule security staff accordingly. So I understand that the parking is an issue. We have 321 spaces and with those we will be directing people to those parking spaces from outside of the club in front making sure that the people that do show up that can't get into the parking lots that are immediately by the nightclub know that we do have parking in the lower lots. In regards to people leaving at the end of the evening, the two critical times in a nightclub other than operation hours are people entering and people leaving with more emphasis on people leaving. The way we have done it at our other establishment is to systematically allow people to leave and how you do that is that we have a mandatory coat check, which works well in the winter time and in the summertime without the mandatory coat check we station people at the exit that people came in when they are leaving to systematically allow people to leave slowly and to finish their drinks. We shut down at a reasonable time so people that do have cocktails can finish their drinks prior to 1:30 AM and we allow those people to systematically leave. In doing that we allow the security guards that are on leave with them so that as people leave the building, security staff leaves the building. So we have more people on our staff that are out there. With regards to people that come into our establishment, we run a very strict, some people say too strict, business but I don't think in this business there are any points for second place. We have a notice of trespass book that we have at the front door that we frequently unfortunately have to use and by doing that we issue people notices of

trespass, which we give the local police departments. We give people one chance. If they make the mistake of causing a fight or causing a problem inside, we remove them and we don't allow them back in. That's it. That is final with our decision on that. With regards to underage drinking or anything along those lines, the same thing. We take our business very seriously. We do a very good job at it as far as I'm concerned, as far as the partners that I have here are concerned, and I know that that is something that we would have to prove to you folks, but if given the opportunity we would appreciate it.

Alderman DeVries stated I have a couple of questions for you. I will start with the easy one. The fire suppression system. Did you upgrade that with the \$750,000 that you spent?

Mr. Franks answered that was done prior, but we have a state-of-the-art suppression system and we are tied in with the local fire department. As far as I know we have the best fire suppression system and communications with the Fire Department that you can get. It is all voice activated and all strobes and it also shuts down the sound system and light show in case there is a problem inside the nightclub. In addition to that, to our expense with a request to the Fire Department, we installed two exit doors at the front of the building so people could exit the building and we have a total of five exits now instead of four.

Alderman DeVries stated so those are emergency exists. You are saying you have one main entrance that you control for normal exiting of the building?

Mr. Franks answered correct.

Alderman DeVries asked could you elaborate a little bit on the security personnel that you have. Are these people with actual policing background or expertise taught by you directly?

Mr. Franks answered the vast majority of people that we have hired down here with the exception of a few veterans will be trained by us directly and in addition to that we do have some veterans that are on board with us that have criminal justice backgrounds and a couple of prison guards that will be working for us as well. So the main management team other than myself and Dana Clay the general manager will consist of a few people from our other establishment and several people that have criminal justice backgrounds.

Alderman DeVries asked in addition to that do you plan on any formal police details.

Mr. Franks answered when we meet with Deputy Chief Gary Simmons I'm sure he is going to ask that we have some and we would request some anyway just so that we have a police presence there and I think it sets a good example and a good tone for people when they come in to see that you have local law enforcement there in case there is an issue or a problem.

Alderman DeVries asked how long after closing do you maintain that security personnel presence either through the police details or your own personnel.

Mr. Franks answered at the other location and here as well, until the lots are cleared. We work very diligently at the other location...we have four and a half acres of parking at our other location and we have a considerable amount of parking here as well. As I stated everyone that is inside of the building that is working security systematically moves outside with everyone else and work very diligently to make certain that every person that is in the lot vacates the premise. Those are private lots that are owned by our landlord, so it is our responsibility to not only police them but it is our responsibility to make sure that they are clean at the end of the night. So as an added detail to our security staff we will also be policing as we do at the other location and picking up bottles and picking up any broken glass or anything along those lines of litter. Incidentally with regards with wristbands, I noticed somebody asked about that or made a comment about that earlier and we remove the wristbands from our patrons before they leave the nightclub. I'm sure there are a few people that do get through with them, but 99.8% of them we remove and again that slows the crowd down so you don't have X number of people outside all at once. You can slow your crowds down by coat check and by having security staff in the hallway and by removing those bands at a pace that allows people to go out so you don't have so many people outside all at once.

Alderman DeVries stated you indicated that you had a parking plan for us and I'm curious if you would point out when you distribute that which of the lots in the parking plan you think will have the security presence - each and every one that you are pointing out. I can see from the aerial photograph there are several lots potentially that people might be parking in surrounding you. I didn't know if you had a handout prepared for us with the parking plan.

Mr. Franks replied yes we do.

Alderman DeVries stated if you could address the security details that you have. Will there be separate individuals in each of the lots drawn in this plan including the two lower parking lots, because I notice this one is...

Mr. Franks interjected that is correct. We have four different parking lots that we will be utilizing. One to the left of our establishment as you are looking at the paper, one to the right that says parking deck, and then the two lower lots. In our peak business hours, and again, we don't know what peak business hours are as yet because we haven't opened and we don't know what nights are going to be busy and what nights aren't but we are going to staff as if they are all going to be busy and the busiest nights that we do find that we need a full staff we will be staffing each and every one of those lots. Under no time will we not have at least one or two persons in the lots at all times, whether we are busy or not busy. We will always have someone outside walking through the lots to make certain that those lots are covered security wise. We have also changed all of the light bulbs that were outside as far as around our building, specifically the front of the building towards the college and towards the housing complex that is there to our left. I believe that a well lit area is much more secure and much safer.

Alderman DeVries stated so I understand, that is on peak nights, and I also understood you to say no matter what the night, peak crowd or not, you would have at least one or two individuals outside working in your parking lots.

Mr. Franks replied that is correct. While we are open we will always have someone out in the parking lot patrolling those parking lots that will have communications with us inside.

Alderman DeVries asked did I also understand you to say that closing time will be consistently at 1:30 AM each night you are open or would that be only your peak nights.

Mr. Franks replied well we have to stop serving alcohol at 1:00 AM. Last call is generally 12:45 AM, so the State of New Hampshire allows you to have alcoholic beverages...people can consume until 1:30 AM. I think it will really dictate what the crowd is. Again, if we have a large crowd and people are still dancing, then we can extend...I believe the Deputy Chief explained to me that it is up until 2:00 AM. If we can extend another half hour and allow people to dance and slowly leave opposed to everyone leaving all at once at 1:30 AM, then that is a benefit to us and I think a benefit to the community because then it allows people to systematically leave slowly opposed to all leaving at once.

Alderman DeVries stated and I guess my question is, is that just weekend nights or is that seven nights a week that you are planning on that schedule.

Mr. Franks replied again 1 AM is closing time but if we have a larger crowd it would benefit us to stay open a little later so that people didn't leave all at once. Personally speaking I'd like to close it at 1:00 AM and just go home because at

that time I've had a long day and I'm tired. But again, whatever is going to be best for people leaving the establishment is important and I think that closing promptly at 1 AM if you have got 300 people leaving all at once it is not as beneficial as having the DJ play for an extra half an hour and allowing people to systematically leave and moving people out.

Alderman Smith stated I have several concerns. Your plan is very vague as far as I am concerned and I know that you are trying to act responsibly. Over in my neighborhood we had a serious situation. I think a lot of people here can remember when it was Club Pyramid. We granted them a license and it took us about five years to get rid of them. I want to go over the hours of operation. From what I understand you are going to be open until 2:00 AM. The last call by state is 1:30 AM. I don't know what your hours of operation are on Sunday, but it looks like seven days a week. Am I correct?

Mr. Franks replied we are currently expected to be open Tuesday through Saturday. We may find that there is a need or an opportunity on a Sunday night or Monday night. We don't know. We really have to test the waters. We may find that Tuesdays don't do well and Wednesdays don't well and Thursdays don't do well. It's kind of one of those things where we are going to look at Tuesday through Saturday at this point and if those nights work for us, great and if they don't, we may try to plug in a Sunday night instead but the hours of operation are we will be opening at 9:00 PM, possibly 8:30 PM and the state allows you to sell alcohol up until 1:00 AM. You can have alcohol on the table until 1:30 AM. I am hoping we could get everybody pushed out by 1:30 AM. At our other location we generally have people out of there by 1:15 AM to 1:30 AM.

Alderman Smith asked is your entertainment going to be continuous or is it going to be periodic. In other words, when you start your entertainment at 9:00 PM, is it going to be 9:00 PM right through to 1:00 AM or are there going to be break periods in your entertainment?

Mr. Franks replied it would be continuous with the exception of when we have bands and when we do have bands there will be breaks that are in there, but we will have a DJ scheduled to play during the intermission for the bands that we have.

Alderman Smith stated now I know you mentioned security. What about off the site? I'm sure a lot of these people are going to be traveling up to where the businesses are like LeMay's or Sanel's. Are you going to have a police presence up there or is it going to be a service that the City of Manchester is going to provide?

Mr. Franks replied it is my understanding that when we meet with Deputy Chief Simmons he will instruct us as to what we need to do as far as detail officers are concerned, which would be an expense for us.

Alderman Smith stated I have to agree with the people in Amoskeag Terrace. I can't believe their property values would go up with this situation and their quality of life is definitely being disturbed. My areas of concern, I'll list them, and I hope that you address them with the police because I think this is going to be a negative impact on the neighborhood: police security, traffic, parking, safety, trash, odor, graffiti, violence, property damage, and noise. Now I realize, and a lot of these people don't realize, this is a mixed use for zoning. It is commercial and it is residential and there is nothing we can do as a Board. That is a case of mixed zoning. They can put it in there but I have to believe the vision of the City and the different businesses that have spent big money like Brady Sullivan are going to be impacted by this and I hope that you address this with the police because I am very concerned about these.

Alderman Forest stated some of the people that talked spoke about out of state customers and you made a comment that you weren't going to allow out of state customers and maybe you ought to explain that a little bit to me. You're not going to strictly...it's just the troublemakers you were talking about. What did you mean by you weren't going to allow out of state customers because you did say that earlier?

Mr. Franks replied if I did then I guess I need to clarify that and I will now. With regards to out of state customers, we won't be not allowing out of state customers in, but with my research down here and having gone out and spoken to different people in the community, their big concern was of an element that migrated north to the City of Manchester. So I stated that we won't be advertising directly in the Massachusetts market and we will be heavily discouraging a certain element that frequents a lot of the other establishments here in town that cause problems. We will be heavily discouraging them from coming in by instituting a strict dress code, by wanding people at the door with metal detectors, posting the fact that we have the right to search handbags, and having a mandatory coat check so that any person that comes into the place has to check their jacket. We've got a list of rules and regulations that we stick to that are very stringent. People that come in are padded down, they are wanded, and made certain that they don't have any paraphernalia or any weapons on them prior to coming into the establishment. I think that's key to running a safe business because someone with a weapon or someone with paraphernalia is unquestionably someone you don't want to have inside of your establishment. So we work very hard at the front door, at the choke hold at the front door, to make certain that that is done and we work very hard at the front door to discourage the type of clientele that we don't want in there from

coming in. There is an unwelcomed guest law in the State of New Hampshire as there is in many other states. We reserve the right as a business owner to tell somebody that they can't come in because they're not looking part that we would expect in a friendly and safe and secure atmosphere.

Alderman Forest stated the other one I think and this is more of a suggestion than anything else and I know I realize as a committee here we can't order or we can't designate what you can or can't do, but the parking lot by Dunn's Furniture which exits onto Hollis Street, are you going to have security personnel doing traffic in there or parking control within that parking lot.

Mr. Franks asked is it the second lower lot that I have on there.

Alderman Forest replied it's the lower lot on the Hollis Street side as you enter Dunn's Furniture.

Mr. Franks asked is it the furthest one down.

Alderman Forest answered it's the furthest one down near Canal Street.

Mr. Franks replied that is not part of our lease so I don't know how the owner of that property would be with regards to our...

Alderman Forest stated I see it here on your plan that you just gave me, which is the lower parking lot. The last parking lot on your plan that you just gave me.

Mr. Franks replied then that would be one that we would be maintaining.

Alderman Forest stated and that exits on to Hollis Street.

Mr. Franks replied correct.

Alderman Forest stated I know I heard a couple of the residents and a lot of the residents call about the shortcut from Hollis to Kidder to get to Canal and that is that Amoskeag Place or Amoskeag Terrace that is down there. A suggestion that I would have and I know you can't do traffic or anything on the street, but if it would be possible to maybe have one of your security personnel at closing be there to keep people from cutting through. I plead guilty. I've done it on occasion too, but if you're going to have 100 people or 150 people leaving at night and they want to head south on Canal Street, that is where they are going to go because they can only make a right turn on Hollis Street. At least to get along with the neighbors, if this goes through here if you could have somebody there to stop them from using that shortcut.

Alderman Long stated Jack I appreciate this opportunity that you're giving us right now. As you probably already concluded, nightclubs have had a negative impact on our community so our concerns are legitimate and they are going to stay concerns. So we are hoping that what you say you are going to do is going to happen. A couple of questions that I have is 18+, do you do any of those?

Mr. Franks answered we have one scheduled night for 18+ on Thursdays. Currently on Saturdays we haven't made a determination whether we will or we won't. At the other location in Lebanon, NH we do have an 18+ on Thursdays and Saturdays and we have done it for almost six years now. Again, we have a very good formula with regards to underage nights and how to monitor them and how to correctly staff and secure a premise for underage nights of that nature.

Alderman Long stated that has been an issue with the other clubs. So you're looking at Thursday night?

Mr. Franks replied we're looking at once a week for right now and we're not certain about Saturday night. In Boston, MA a lot of times what they will do is a 19+ and we may consider doing that and if we see a need to do that but currently right now I think only Thursday nights will be 18+. Again, with regards to the way we manage and the way we secure a premise it is a completely different thought process and management style compared to I think what you folks have been...what you have had here in town. We do things completely different as far as securing a premise for 18+.

Alderman Long asked with respect to your business plan is that a big part of the business plan, having the 18+ nights.

Mr. Franks replied at least one night a week, I think it's a positive thing because it gives people an opportunity to go out and dance and have a good time and enjoy themselves so with the higher price cover charge that we charge for the 18+ it is a definite plus financially for us but if we could get away without doing 18+ we will. If we can stay busy as many nights a week and cover our costs and make a living from it then we would but currently right now Thursday night is the night that we plan on doing an 18+.

Alderman Long stated with respect to oversight and West Lebanon, are you going to be overseeing West Lebanon or are you going to be basically in Manchester.

Mr. Franks replied I'll be in Manchester primarily. I have a business partner there that's been with me for 5 years and has 15 years experience in this business as well so he'll be there and we have a team of management up there that has been

training over the last seven months to take over the place as Dana and I move down here to add this location.

Alderman Long asked these managers, what past clubs have they managed. Has it been local clubs, out of New England, out of the state?

Mr. Clay replied I got my start in a small family restaurants. Actually it's kind of a funny story. My brother worked there and I would show up and help out and not have a job and eventually they actually decided to pay me but that started when I was quite young. I was a bar manager at 19, which I think you will find is rare and I worked for several establishments over the last several years in a management capacity of one sort or another and the last three to three and a half years as assistant general manager and then general manager of the Electra Nightclub and Denny's Street Bar and Grill in West Lebanon for Jack Franks.

Alderman Long stated from what I understand is this basically going to be run or not run but you are going to have the attractions like the Electra in West Lebanon.

Mr. Franks asked as far as...

Alderman Long replied every night is not a rap night.

Mr. Franks replied that's correct. I couldn't take it. We are going to be doing different theme nights. We have kind of got a tentative schedule set for right now. Tuesday nights we're looking at an alternative lifestyle night. Wednesday night would be industry night, which would allow people in the restaurant business and the nightclub business and service industry to go out. Thursday night we have had a very successful ladies night in West Lebanon. Friday night we're looking at doing a 70's theme for people my age and older and Saturday nights we have the open house dance party up there, which is a mixture of different types and genres of music. So I don't think that you can appeal to one certain group of people five nights a week and expect to be successful simply because of financial...financially people just don't have that much time to go out and spend that kind of money on a regular basis.

Alderman Long stated I hope tonight you're bringing with you the...the two major issues of security outside and closing. I know you are not responsible for Hollis Street and after that. You are responsible for your parking lots so am I to assume that there is no loitering in your parking lots.

Mr. Franks answered there will be no loitering in our parking lots. Actually I have to talk to the building owner, the property owner, about actually posting those because I don't think they are posted at this point to make certain that if we do

need inform people that they are loitering that we'll at least have that posted so that if we need to call local law enforcement to have somebody removed, we will be able to do that.

Alderman Long stated the other issue is the parking. Parking in residential areas, not allowing those residents to be able to park by their homes.

Mr. Franks asked can I add one thing to that. With regards to parking in the local areas that people are concerned about here that live in Amoskeag Place, we didn't have plans but we do have plans now to actually blow up the plans that you folks have there. We can put those on the wall and we can also upon entrance of the nightclub add to the rules and regulations as far as where you can't park and I would be more than willing to do that to let folks know that if they've parked in a place that they shouldn't be parked, that they are subject to towing and if we find out obviously that they have parked there that we would call a tow truck or call to have them removed. So anything that we can do to help that process along we would be more than happy to help with.

Chairman O'Neil stated Jack I think we need to clear up something just to make sure there is a clear understanding. Do you have a copy of the map in front of you?

Mr. Franks replied no I gave them all to you.

Chairman O'Neil stated if we worked from Hampshire Lane to the bottom of the page, which would be westerly down Hollis, the first curb cut, it says lower parking and part of the parking spaces say Gray Bar parking, it might be a plumbing supply company now, or was.

Mr. Franks asked Lot B. Are you on the first page or the second page?

Chairman O'Neil responded go over to Hollis and Hampshire Lane, that corner. It says parking deck and the next lot down it used to be Gray Bar Electric Supply there. That comes along with your rental correct?

Mr. Franks answered correct.

Chairman O'Neil stated then the next lot down, which says Lot B, I think that's Davidson Construction Company storage yard, just to clarify when you were having the discussion with Alderman Forest, that to the best of my knowledge does not directly exit out onto Hollis Street. You actually have to come back and then get into the Dunn's Furniture parking lot to get out either to Hollis or I think the gate brings you out closer to Canal Street. You are on the record and we just

want to make sure that that's clear. So what you're showing is the bottom fence line here. There's actually another parking lot in a building to the west of that.

Mr. Franks stated below it.

Chairman O'Neil stated correct. We just wanted to make sure. The Clerk was concerned that there was some misinterpretation on our end about that. I have just a few questions for you. I just want to make sure I'm clear. One of my questions had to do with the underage nights. Your game plan now...why don't I let you say what your game plan is. I don't want to quote you.

Mr. Franks replied the game plan at this point is to have one 18+ night on Thursdays. If we can sustain a decent crowd on Fridays and Saturdays...Friday nights will as far as I'm concerned I'm almost 99.9% certain will always be 21+. Saturday night if we can fill the place and do a decent job as far as our clientele coming in on Saturday night, we would like to keep it 21+ only. If we find that there is a need to go to 18+ on Saturday we may but we have done the 18+ for five years going on six in Lebanon on Thursdays and Saturdays. It has worked very well for us up there.

Chairman O'Neil stated if you will take any advice that has been a problem in this City for some reason and I would ask you to use caution with that. You can legally do it, but when we have had problems it always seems to center around the 18+ nights. How are you going to handle unruly patrons or somebody who needs to be removed from the facility.

Mr. Franks answered we have a security risk management policies and procedures plan that we brought along in case you folks wanted a copy of that.

Chairman O'Neil stated just walk me through a scenario. Somebody has had too much to drink and they have been asked by some of your staff to leave.

Mr. Franks replied well it would be dependent upon how much they have had to drink. We interpret how much they have had to drink and whether or not we need to call a cab for them or find them a ride home. Hopefully we don't get to the point of where they have ingested so much alcohol that we need to call them a cab, ore that they need to find a ride home from a friend but if somebody needs to be removed, our procedures are basically to talk them out to a secure area near one of the exits and then properly ask them to vacate the premise and to leave.

Chairman O'Neil asked once they are outside the door what happens.

Mr. Franks replied again going back to what I just stated our job is to make certain that that person gets home safely and we will call a cab for those folks or we will find a friend or someone inside the establishment. Under no circumstances would we allow somebody to leave the place who is visibly intoxicated that we are fully aware of who has keys that would drive. We do interventions. We do step in.

Chairman O'Neil asked so you find a friend that is able to drive them home will they be escorted to their car or once they are out the door they are on their own.

Mr. Franks replied there will be people in the parking lot who will walk them or view them walking to their car and make certain that they leave. That is what we do in Lebanon. When we have somebody that has too much to drink the procedure in Lebanon will be the same here. That is that they are first found by a security staff member or a waitress or a bartender and then the management team comes over, meets with them to determine whether or not we feel that they have had enough to drink and at that point when they are asked to leave then it is radioed to the front door that we've got somebody coming out. We make an announcement if the person does have a friend there at the club and their friend goes with them and they have to leave. At that point we have security staff make certain that they do go to their vehicles and they vacate the premise, because it is private property so we have the right to ask them to leave but certainly to make certain that they have a ride home that is safe first.

Chairman O'Neil stated I'm going to jump around on some different topics so bear with me. You mentioned a no smoking policy in your facility. I'm in the facility and I decide I want to go have a cigarette. What happens?

Mr. Franks replied we've got a designated area right outside the door that we will allow people to go out. We will have a place for them to set their alcoholic beverages prior to going and that will be an area that will be viewed by the security staff that is in the parking lot already. So we'll be able to have somebody there on that corner watching people have a cigarette and that door that people will be going in and out of will be manned by security staff inside.

Chairman O'Neil asked how close is that to the front door roughly.

Mr. Franks replied 100 feet.

Chairman O'Neil asked and you should be able to control behavior out there, yelling and any of that stuff.

Mr. Franks replied yes again and going back to the policy that we have with people and patrons coming into the place, if we have got somebody outside that's

hollering and screaming and making noise, I don't think that's acceptable behavior. If somebody wants to go outside and holler and scream like that, they can hit the road because we don't want them back. We're just going to tell they hey you either need to quiet down and act responsibly, or you are going to need to vacate the premise and that's what we do. We have people that are in line at our establishment at times who act up or act bad and they have either got a learning curve issue or they are too intoxicated to come in and we deal with it appropriately when it comes up.

Chairman O'Neil stated there was a lot of discussion earlier about when you stop serving alcohol. When will the music stop?

Mr. Franks answered the music will stop dependent upon the night and dependent upon how many people we have there. There are times at the other location where...

Chairman O'Neil interjected say you have got a full house at 1:00 AM. When does the music stop?

Mr. Franks replied it may not stop until 1:45 AM or 2:00 AM. It depends on how we can get people out. Generally speaking when people hear last call at 12:45 AM you'll see people, and it has been my experience over the last 19 years in this business when you call last call, people systematically start leaving and you can control that by the DJ. If the DJ keeps playing non-stop hits all night long, chances are people are going to want to stay until 4:00 AM and dance. So you control that very easily by having the DJ throw in a couple of odd ball songs and people just go well this kind of stinks and let's got home. So that's how you do it and you can slow your crowd down from leaving and speed them up by leaving simply by the music that the DJ plays.

Chairman O'Neil stated you mentioned earlier that your intent is to be open Tuesday through Saturday, although you did apply for a Sunday license.

Mr. Franks replied well it's my understanding that you need a Sunday license if you plan on staying open past midnight on a Saturday night, so I kind of had to apply for one.

Chairman O'Neil stated there was some talk earlier about a dress code. Do you have a dress code in your Lebanon facility?

Mr. Franks answered we do.

Chairman O'Neil stated I guess my final...I don't know if they are questions or more comments but a lot of the issues are going to be how you handle outside and around your facility and how you are as a neighbor to the people that live in the area and work in the area. I would just strongly suggest as much of your own security personnel as possible, not only at closing time but during other hours and I would hope in your discussions with the Manchester Police Department that you would talk about having a police officer or two outside to help address...because unfortunately people don't always respect security personnel but they seem to respect police officers. So I would just encourage you in those discussions with Deputy Simmons to talk about that. Just don't worry about having a police officer inside, but also a couple outside. It might make your life easier and might make life better for the residents and the businesses in the area.

Alderman DeVries stated you said that you get an upper scale clientele or hope to get. Is there anything above and beyond what you have already told us that helps get that sort of clientele? We have heard the dress code and everything else.

Mr. Franks stated in our market research down here one of the things that we heard over and over again, the number one thing from everybody that we talked to in town when we came down and spent time out in the local scene, was security. That was the number one concern for everybody in town, and I think by talking to people and meeting with people and discussing security specifically, that a lot of people in town are simply afraid in some cases to go out because they don't feel safe.

Alderman DeVries stated so make it secure and you'll get the better clientele that you are after. Are you planning on charging a cover charge?

Mr. Franks answered yes.

Alderman DeVries asked is that part how you bring upper scale clientele. Is it maybe more expensive than some of the other clubs have been in Manchester?

Mr. Franks replied I would say that we probably will be more expensive as far as cover charge is concerned to the vast majority of nightclubs here in town but also by instituting a very strict dress code. It's a proven fact that people who dress nicer in the nightclub scene...it has been my experience that they are less inclined to cause problems. It also sets a tone for the place too. If you have got somebody coming in with a hat twisted off sideways or a bandana on their head, that doesn't set the kind of tone that we would accept or expect to have happen in our place. So we have a very specific dress code and people either need to adhere to it or they can go someplace else.

Alderman DeVries asked is your dress code addressed in the handout you gave us on risk management. Do you want to give us a copy of your specific dress code for the record?

Mr. Franks replied I would love too. I don't think that we have a complete dress code inside...

Alderman DeVries stated I guess it's in our risk management handout, which I haven't gone through. It looks like we do as well in the security staff handout that you gave us.

Mr. Franks stated it's not in the risk management handout, but we do have it posted at the front door and it is on our website.

Alderman DeVries stated and it sounds like we can ask people in the audience and they will give us a copy of the sign that is on your door. I have a couple of more questions. You addressed 18+ nights. Do you plan any all age nights that would allow under 18 clientele in?

Mr. Franks replied at the other location we have a Sunday night during the summer and on Christmas holiday break or spring break or winter break...on Sunday evenings we have a night up there for the underage that's 19 and under that's been very successful for the last five years. And again, it gives kids the opportunity to go out. It is non-smoking and it's a very well maintained and managed atmosphere. It is an opportunity for the kids to go out and dance. Their parents come and drop them off and the parents come and pick them up. Once they enter the establishment, they are not allowed to leave until the parent comes back and picks them up. It is a great opportunity for the kids to go out and dance and have a good time. So we may do that, but I don't foresee it at least at this point and if we do, like I said, it will be a non-smoking event and there will be no alcohol that will be showing. There are certain regulations with regards to liquor control that we have to abide by.

Alderman DeVries asked so if I understand you and excuse me you probably know the liquor laws better than I do, but any time that you have an under 18 night there is no liquor sales at all. Does that extend until 2:00 AM or 1:00 AM or hours of operation for that night?

Mr. Franks replied that is for any time. Actually all the alcohol has to be secured, has to be put away and it can't be visible. We coin it as a substance free event.

Alderman DeVries asked and the hours of operation.

Mr. Franks answered it is a substance free event. There is no alcohol showing. We serve sodas and Red Bull and the kids dance and have a good time. We bring in some pretty good acts.

Alderman DeVries asked and that could go until 2:00 AM as well.

Mr. Franks replied we only go until midnight on those nights.

Alderman DeVries asked and if you do that, you referenced your Lebanon facility and that you said I believe was on a Thursday night or something. Are you planning that activity or is that yet to be determined for the all age event that goes until midnight? Is there a specific night of the week that that might be?

Mr. Franks replied we don't actually have an all age event. We only have 18+ in Lebanon on Thursdays and Saturdays and we have a 19 and under, it's considered a teen night. So it wouldn't be an all age night, meaning you would have to show ID if we suspected you were over the age of 19 to get in for that on a Sunday evening for example if we decided to do that. But at least at this point I don't see that we're going to have that event or that venue.

Alderman DeVries asked could you address...are you willing fund some sort of a litter pick up in the surrounding neighborhood or within the leased area as well as the residences, should that become an issue. Are you willing to go on record that you would provide a detail or pay for the detail that has to pick up those neighborhoods?

Mr. Franks answered yes. At our other location we police the entire parking lot. We police Shaw's parking lot and we police Thermal Dynamics parking lot, which is adjacent to us and we pick up trash in those three lots every night that we are open in that nightclub. So whenever we have overflow parking that goes into those other parking lots on the nights of operation that we are open, we are responsible or I take it upon myself to make certain that we are responsible for that. So with regards to this specifically down here, our security staff will be policing the four lots that we have each night that we are open and make sure that the trash and debris is picked up.

Alderman DeVries asked and if there are bodily fluids, do you have the ability to take care of those before customers might be coming through the next day. In other words, if somebody vomits outside, do you have a bucket of water, are you cleaning it up that night or what is your procedure?

Mr. Franks answered we clean it up at the other location. We wash it down. We would be doing the same thing down here but again if somebody gets to the point

of where they are vomiting in our parking lot, we are going to be taking their identification from them and issuing them a notice of trespass because I don't find that that's again acceptable behavior if somebody gets to that point. And again, we determine that. Sometimes people go out and they have a bad meal or sometimes they go out when they shouldn't go out because they are sick and they have an upset stomach and sometimes that happens, but you can visibly tell whether or not somebody's had too much to drink and vomiting is a result of that. So if somebody has had too much to drink and vomits because of that, we would a) clean it up and b) issue them a notice of trespass, because we don't want them back because we don't obviously want somebody who has had that much to drink coming back and potentially causing problems down the road.

Alderman DeVries stated the noise control of the building when you did your \$750,000 worth of renovations, did you improve the soundproofing of that building other than the doors that you said because you are non-smoking will be shut, previously they might have been left open, have you done other improvements that might enhance the noise control on site.

Mr. Franks answered yes. We added a wall that separates the VIP lounge area from the rest of the main bar where the music is played, and that specifically puts another block with regards to Amoskeag Place and the condos that are over there. Before when there was no wall there the sound could freely travel throughout. So we closed that off, insulated that and gave another barrier for the music before it got to that point and then again, with the no smoking we won't have to open that rear door as I am sure they did prior to us taking over the club to ventilate the place because they had smoking in there. I'm certain they opened the door to allow fresh air in, which we won't need to do because there is no smoking.

Alderman Smith asked on your business license application dated January 24th you have down here amusement devices and you put down there PGA tour, two machines and three pool tables. Is that it? There are no other amusements in that place?

Mr. Franks answered there may be a couple of table top units that sit on the bar that are coin operated but we haven't gotten them in yet and we have to talk to the owner of the business prior to doing that or getting them.

Alderman Smith asked and one question I may ask, have all of the City agencies signed off except the Police Department? Am I correct in saying that?

Mr. Franks answered that is correct.

On motion of Alderman Forest, duly seconded by Alderman DeVries, it was voted to take this information under advisement and refer the information to the City Clerk's staff for consideration of conditions.

Chairman O'Neil addressed Item 5 of the agenda:

Communication from Attorney Kevin Buchholz, on behalf of Metro Cab and Kenneth DeSchuiteneer, relative to a rate increase of cab fares.

Kevin Buchholz, Attorney stated one of the things I was going to suggest is that if they are charging a cover charge at the bar they could give discounts to people who could show that they are parking in their parking lots. That way, it would encourage people to park in their parking lots instead of parking on street. The other thing you might think about is giving resident parking permits down in that area but that is not what we are here about today. I am here on behalf of my client, Ken DeSchuiteneer, the owner of Metro Cab. I am with the law firm of Walker & Buchholz here in Manchester. We were originally here before the Committee and some of you or maybe all of you were not at the previous hearing that was held on September 27. At that time, our request was tabled largely because some members of the Committee wanted to obtain information concerning law enforcement with respect to cab companies that were coming in and picking up in the City but were not licensed to pick up. In addition, I think that they were looking for some additional information from us. I submitted additional to the Committee by way of a letter dated December 20, 2005, which I believe you all have with you today. There are some attachments to that, however, before I get into that one of the first things I want to make the Chairman aware of is that there are currently only two cab companies licensed to do pick up in the City. Any other cab company that comes to the City actually picked up outside the City or has been licensed to pick up at the Airport and then drop off in the City, despite that it has been my client's experience that there are a number of cab companies that even though they are not licensed to pick up in the City do pick up in the City anyway. I know that there was supposed to be some follow-up with the Police Department on that. I don't know if you got a response to it or not. The last time that the two companies that were licensed to pick up in the City received an increase for their cab rates was in 2000 and the increase that was received at that time was not an increase in the overall fare but it was an increase in the initial drop charge. I believe the initial drop charge went up \$1 at that point from \$2 to \$3. There have been no other increases. So that meant that the only increase that a cab customer experienced from 2000 until present was a \$1 increase for the overall ride. As you know, probably from your own personal experience, things have changed significantly since 2000. There has been a huge increase in the amount that we pay for gasoline. There have also been increases in the amount that my client has to pay for insurance – worker's compensation, liability

insurance, property damage insurance and things of that nature. All of which go into the overhead of the business, not to mention the cost of parts and labor or materials and labor that have to be done to make the cabs run up to the standards that the City seeks to have. As a result of that my client is forced to come here and ask you for a rate increase so that he can keep his business running in a manner that is going to allow it to run at a profitable rate. As you can see, Manchester is not the only City that has experienced similar problems and we gave you previously a run down of the companies that have requested increases and I have included that in some of my materials, including the taxi cab rate chart that we provided to you. There were some representations made at the last meeting concerning whether or not rate charges have been enacted elsewhere and whether or not the City of Manchester was among the highest. As you can see from the materials that I provided, the City of Manchester is not among the highest. While it may have been among the highest at one point in time with respect to the drop charge, with respect to the overall fare it was not. As a matter of fact it is actually one of the lowest. If you read through the materials that I have provided you can see that other than the drop charge, which we are not requesting an increase on as far as the drop charge goes, we are asking that that remain the same but all of the other cities that are listed in here charge considerably more than the City of Manchester does for the fare as the taxicab is driving down the road, whether it be charged a 1/10 of a mile or 1/6 of a mile or whatever increment that is. The other thing that I would add other than the obvious from the materials that we provided is that if you currently take a cab here in the City of Manchester from the Airport to let's say Central Street in Manchester, which is very close to the Radisson that is now there, the fee for that would be \$15. If you took the same distance ride in my client's cab at the rates that are given by the City, my client would be allowed to charge \$11. For the same cab ride from the Airport to the Ramada, which is up by the Amoskeag Fishways, if you take a cab from the Airport to the Ramada, they charge you \$17. My client would charge \$12 under the current rate structure that you now have. As you can see even in the Manchester area the rates that you allow my client and Queen City cab to charge are significantly below what other companies are offering in the City. In addition to that, there are a number of people who provide services here in the City that do not have their rates regulated whatsoever. For example, if I want to spend an evening going to Richard's Bistro or one of these restaurants or maybe to the club that you heard from this evening and then home with my wife I can take a limousine and that is not restricted whatsoever. There are no regulations for that. That means that they can charge below my client or they can choose to charge above my client. The problem there is that they have a competitive business, one which my client cannot compete with. He can't say to people rather than taking a limousine and paying the rates that they charge come see me and I will charge you a different rate. Now we are here asking for a rate increase but the other thing we are asking the panel to do is to make a recommendation or to work on a change in the ordinance here in the

City. You heard from Queen City Cab the other time and they said that they essentially did not want to have a rate increase, although I know that they are not represented here this evening. If you deregulate the cab fares, not the cabs themselves but the cab fares, my client would be free to charge whatever he wants and Queen City Cab would be free to charge whatever they want and the people that would reap the benefit of that would be those people that take cabs because with a competitive cab business rather than an across the Board rate structure that you now have in place, that would allow people to compete on price and service. Right now, the only thing they have to compete on is service and I would hazard to guess that if any of you ever took either a Queen City Cab or a Metro Cab you would find out that they are essentially the same in terms of service. The types of vehicles that they both offer are essentially the same. People that drive cabs and I think my client can tell you that he has had a number of drivers who have worked for him for many years...we have also have one gentleman here tonight who works for the other cab company and probably has for many years but there are a few people that are in the cab business as cabbies that have been in this business for some period of time although occasionally you have some people that come and go. The other thing that we would ask is if you are considering changing the ordinance or the regulations is that you allow for the use of different types of vehicles to be used. Presently as it stands my client is pretty much limited to what one would call a full size vehicle. The average customer, 85% of the fares are one person or less. For those fares that are more than one person, it is usually around two. Fares that are three people or more are very small. It is probably less than 1%. To require both cab companies now to operate with a large size vehicle in this type of economy, particularly with the marketplace in terms of fuel and whatnot is really not productive from a) a congestion point in terms of City traffic; and also b) from an economic standpoint on the use of fuel and pollution here in the City. As you heard in the President's State of the Union address, there is going to be a push to get us to alternative fuel vehicles. If that market comes to fruition under the current regulations here in the City, neither cab company would be able to take advantage of those changes in technology. They are essentially roped into what essentially is a Crown Victoria fleet and some cabs that are mini vans, which I would hazard to guess are and I think you probably now are not very fuel efficient. What my client is asking for if you are inclined to grant a rate increase over deregulation or non-regulation of the rates is that the drop fee remain the same, that the mileage fee change from the current structure, which I believe is 25 cents for every 1/6 mile to 25 cents for every 1/10 of a mile and that the waiting time fee, which is currently at \$15/hour be increased to \$25/hour or alternatively that you allow for...under the current rate that you allow the waiting time to be charged not just for if someone is in a store getting their groceries but if indeed the cabby is sitting in traffic waiting for people to come out of the Verizon or waiting to get down South Willow Street at a very busy time during the shopping season so that essentially they would be charging on a time and mileage basis. If you

look at the materials that were provided to you, you will see that under the fare structures that we are asking for it would still not put Manchester anywhere near the highest and obviously across the country cab businesses have felt the impact of the increases that we have been talking about – not just in the fuels but in the insurance, maintenance and things of that nature that go along with running a cab business, not to mention having to pay employees other than cab drivers who are involved in the business. The chart lays out very nicely what those cab structures are and what it comes out to be per mile. Currently if you look at the averages, a Manchester cab driver who drives 100 miles on a given evening is charging \$244 less for that distance than in most other cities throughout the country. If you figure that out over time over a period of a year, that is a substantial difference in the tens of thousands of dollars that is going untapped as a result of the fare structure that we currently have here in the City of Manchester. It is very difficult for my client to continue maintaining his business with the fare structure that you currently have, increasingly so. When we were here the last time, the gas prices had gone up to around \$3/gallon. They dipped down for a short period of time and now they have risen back up and the average price of gas is running about \$2.45-\$2.49/gallon at your regular level. That is way over and above what the price of gas was back in the year 2000. I would hazard to guess and I am sure the panel is aware of this fact, that there aren't too many businesses here in the City of Manchester that haven't increased the prices that they charge for their product or changed their product in some way to allow for them to maintain the same prices between the years 2000 and 2006. What my client is asking for is a very reasonable thing. We understand that there appears to be one cab driver here who may be speaking on his own behalf tonight and I know that Chairman O'Neil knows that individual but the cab drivers, however, are not the ones that have to run the business. The owners have to run the business and the owners have to be able to at least make a profit to allow them to stay in business. If my client isn't allowed to do that, eventually he will have to close down and that means at that point you are only going to have one cab company here in the City of Manchester. The important thing to keep in mind about that particular cab company is though that they don't just service the City of Manchester whereas my client does. My client does not service the Airport and he does not service out of town. He services here. My client feels that if you are going to keep those regulations in place that the fare structure that we are asking for is a reasonable one that will allow him to continue operating his business here in the City and exclusively servicing the City customers while at the same time being able to earn a reasonable profit on his business.

Alderman Forest stated I have a couple of questions and then a couple of comments. On the cabs themselves, does Kenny or his business pay for the cabs? Do they purchase them?

Atty. Buchholz responded my client purchases the cabs himself so all of the cabs are owned by the company. The cabs are not owned by the cab drivers.

Alderman Forest asked they are not leased by the cab drivers at all.

Atty. Buchholz answered no the cabs are leased...

Mr. DeSchuiteneer stated yes they are leased.

Atty. Buchholz stated the ownership of the cab is with the company. As the cab goes out for the evening, the cab is leased by the individual driver at a certain rate. However, those cab drivers are not responsible for the maintenance on the vehicles. They are not responsible for the insurance on the vehicles. They are not responsible for anything other than making sure that the fare is collected and that they go and pick up their assigned fares. They put gas in the car, which is part of what they pay for on their lease of the vehicle.

Alderman Forest asked so the drivers pay for the gas.

Atty. Buchholz answered yes.

Alderman Forest stated I believe that when Kenny was here before...I was on the Committee that had this originally. I wasn't the Chairman but there was some mention about...I know you were upset about a car being towed and it was costing you \$120/night. Was I right about that?

Mr. DeSchuiteneer replied yes. That particular incident was...I guess the driver had done something wrong and my mechanic went to the scene and said I will have the car towed and the officer had the car towed by a company that charged me \$120 where I have a charge account with a tow company for \$35.

Alderman Forest stated the other question I have is this taxicab rate chart that you submitted with your letter, I notice that the nearest town or city is in New Jersey and there are several of these that I have been to and there is no way that Anaheim or Buffalo or Kansas City or Las Vegas compares to Manchester.

Atty. Buchholz responded I think if you actually went through and looked at the populations that are listed on there, you have a wide variety that are given, some of which are comparable to Manchester. For example, Santa Fe is one that is listed which is considerably below Manchester. Smithfield, which only has a population of 12,000 is way below Manchester. You have some that are considerably over Manchester. You have Forked River, for example, which is again below Manchester. It is a wide variety of different places. You have

Fairfax County, VA, which is considerably above Manchester. Again, this is not just something that is exclusively a big city problem versus a little city problem. It is largely a function of what it costs to maintain and run a cab company regardless of whether you are in a larger city or a smaller city.

Alderman Forest asked couldn't you have come up with some around the New England area so I have an idea...I have been to Santa Fe and Anaheim and everything else. I have taken cabs in these towns. To me they don't compare to Manchester at all. I have been to a lot of these towns that you have listed here or cities. Something like Boston or Lowell or in the area that have cab companies.

Atty. Buchholz answered we talked a little bit about that the last time we were here. One of the things we talked about is Nashua, for example. They don't have a rate structure like you do here in Manchester so it is hard to find cities that you can compare to but the best one I can give you an example of is Portsmouth and the rate structure over in Portsmouth is considerably higher than what it is here in Manchester.

Alderman Forest stated well maybe you should have included it in this list. I really can't determine whether you should have a rate hike by looking at this particular list. Those are my comments.

Atty. Buchholz stated I think Mr. DeSchuiteneer could probably tell you what the rates are over in Portsmouth. I personally don't know that.

Alderman Forest responded I don't either. I usually don't take a cab in Portsmouth. I drive there on my own.

Alderman DeVries asked if I understood you correctly, you are asking for a rate hike up to an incremental charge of 25 cents for every 1/10 of a mile.

Atty. Buchholz answered just so we are clear on what we are asking for, we are not asking for a change in the drop charge, which is currently \$3. We are asking for the mileage charge to be increased to 25 cents for every 1/10 of a mile. We are asking for the waiting time charge to either be allowed to be waiting time to include stopping time in traffic at the current rate or that you allow waiting time the way it is but increase the rate to \$25, which is in line with what most cab companies charge, if not slightly less.

Alderman DeVries asked so based on that the cost of a six-mile trip...because I wasn't sure what else factored into this but is that \$15.

Atty. Buchholz answered yes. I included that in the materials or the letter that I sent to you. It would basically bring it in line with what we were discussing earlier about the rates that we would incur if you were taking a cab from the Airport as opposed to what my client can currently charge.

Alderman DeVries responded I don't think I saw that in our handout. So that would be \$15 for the six-mile trip? There aren't other charges on top of the incremental unless we do something that changes wait time?

Mr. DeSchuiteneer replied with the new rate structure it would be \$15.50 I believe for that amount of mileage you mentioned.

Alderman DeVries asked so for six miles that would be the comparison.

Mr. DeSchuiteneer answered yes.

Alderman DeVries stated the other piece that you testified to that I didn't understand, Sir, was your final comment on how we are inhibiting the use of alternative fuel or other types of vehicles. I just didn't understand the thought process behind that so maybe you can elaborate beyond your letter.

Atty. Buchholz responded under the current ordinance the type of vehicles that my client can use are limited to...essentially if you look at the cab companies here in Manchester most of them either have Crown Victorias or mini vans of some sort because that is what they are allowed under the current regulation. If one of the cab companies in the City decided that they wanted to have one of say the Honda vehicles that are coming out that are now fuel efficient, they could not use those because they would not fall within the criteria even though anybody who is familiar with Honda knows that the Honda safety record is far above any of the other vehicles that are currently being operated here in the City as well as the fuel efficiency on those vehicles. Given the fact that most fares are only single person cabs, it doesn't make sense to require large vehicles to be used to transport those people around. Understandably if there was a safety factor involved we might agree with that and we think that the regulations can be such that would allow for those alternative vehicles to be used and not compromise safety.

Alderman DeVries stated thank you. I understand now. So on top of the rate change that you think should occur there is a separate factor dealing with the criteria within the ordinance that you would like us to address?

Atty. Buchholz answered yes.

Alderman Smith asked how many cabs do you own.

Mr. DeSchuiteneer answered eight licensed taxis. I currently have 11 taxis but 8 are licensed and operating.

Alderman Smith asked what is the average age of the fleet that you have.

Mr. DeSchuiteneer answered the City ordinance requires that we use nothing older than nine years old. The average year of the eight cabs that I am running are 1998's.

Alderman Smith asked and you do all of the maintenance on them and you own them and you lease them out to the individual drivers is that correct.

Mr. DeSchuiteneer answered that is correct.

Chairman O'Neil stated I have a couple of comments. Although I am new to the Committee because I have been off for a number of years, I was around when we made these changes and they were to try to improve the cab system in the City, which in all honesty was an embarrassment.

Atty. Buchholz responded I don't know what it was like back then.

Chairman O'Neil stated well that is when we changed the type of vehicles because they were using mid size cars that people couldn't get in and the vehicles were falling apart, etc. We did put an age limit on the cars. We did put the type of vehicles that could be used to try to make the cab service here first class. You are very misleading counselor sitting here tonight saying if we allowed different types of vehicles, including alternative fuel, that your client or the other gentlemen who own the other company are going to go out and buy brand-new cars. In my 15 years as an elected official here I have never seen even a one-year-old car as a cab in the City of Manchester. That is a very misleading statement that you left Alderman DeVries with.

Atty. Buchholz replied no I wasn't trying to mislead her.

Chairman O'Neil responded absolutely. You gave the impression that if we moved from the ordinance that currently exists and allowed for alternative fuel cars, you mentioned Hondas, you implied in my opinion that your client would be out buying them. Don't...I have been around here too long to hear that stuff. They push as old a car as they can push here.

Atty. Buchholz stated let me make myself clear here. My client is not in favor of compromising the safety of the passengers in the vehicles. My client is in favor of

using vehicles that allow for fuel efficiency and do not compromise safety. If the panel wants to set an age limitation on the vehicles, we are not opposed to that.

Chairman O'Neil responded we already have it. It already exists. It exists today.

Atty. Buchholz replied we are not asking you to change the age limitation.

Chairman O'Neil stated but you give the impression to me anyway that your client would go out and buy these alternative fuel vehicles.

Atty. Buchholz replied I believe he would based on my discussions with my client.

Chairman O'Neil stated now to the best of my knowledge the only ones that exist are brand-new cars correct.

Atty. Buchholz responded yes and we are not saying that the cars shouldn't be new either.

Chairman O'Neil asked can you insure that if we did vote for this rate increase... how much of that money would go to the drivers.

Atty. Buchholz answered I couldn't tell you that but the drivers would probably reap a good portion of that. You have to remember that there will be no drivers if there are no cab companies and currently with the fare structure that is in place my client is having a very difficult time maintaining the fleet of cabs and still being able to run the business. By the way, none of the cab companies operate out of fancy garages or anything like that. It is just the maintenance of the vehicles themselves, the insurance and those things that you have to pay to run a business at the bare minimum. We are not talking about a fancy hotel or something like that where there is a lot of that overhead but there still is the cost of insurance, the cost of parts, the cost of labor, the cost of paying mechanics, the cost of paying dispatchers – all of which are not cab drivers but their salaries and their pay are generated from what the cabs bring in.

Chairman O'Neil stated you did, however, talk about the increase in fuel.

Atty. Buchholz responded yes I did.

Chairman O'Neil asked who pays for the fuel now.

Atty. Buchholz answered the cab drivers do.

Mr. DeSchuiteneer stated the cab drivers do but not the total amount of the fuel bill. In the last month if I remember correctly I have paid approximately \$350 in fuel bills where drivers have left the tag, have logged out having made enough money and have left the cab empty. If you are going to have another driver take over that cab, I have to fill it up for him. The reason we asked for a rate increase is not necessarily for me to up their lease rates and I know that is what you were asking. The reason I asked for a rate increase is so that my drivers can make a living and I can have drivers out there on a steady basis. Now I hire drivers who work one week, spend all of their money on gas and don't come back. So it is harder and harder for me to find drivers. I noticed in the paper yesterday that Queen City had an ad in to hire drivers. I told Matt three weeks ago that I had plenty of drivers. Now I have a night shift where I am running three cabs on a Monday night because I can't find drivers. That is why I want a rate increase. In answer to your question, I don't know how long I can let them keep all of their rate increase but I am only going to increase it as my insurance goes up and as my bills go up. I already raised their lease a year ago in November without them getting a rate increase because I had to because my cab insurance jumped from \$7,000 per car for liability insurance to \$10,000 per car. I had to raise their lease. I don't have any intention of raising their lease at this time.

Chairman O'Neil asked Matt, Mr. DeSchuiteneer represents Metro Cab and there might be some subsidiaries of that but what is the name of the other major firm in the City.

Deputy Clerk Normand answered Queen City Tax.

Chairman O'Neil asked what is the name of the gentleman who owns that.

Deputy Clerk Normand answered Rudy and Simon Musat.

Chairman O'Neil asked have we heard anything from them on this issue.

Deputy Clerk Normand stated they testified at the last hearing that they were against this. They are opposed to it. They are still opposed as of last week. Mr. Applebaum is here and he drives for both brothers. I am sure he could give the Committee some good insight.

Chairman O'Neil stated Ken to me you are here with your lawyer and the other firm isn't here and I see one driver sitting here. To me it doesn't paint a picture that the cab system is falling apart in the City of Manchester. I don't know.

Mr. DeSchuiteneer stated Mr. Musat sat here and testified at the last meeting and Alderman Forest was the Chairman at that meeting. I know that Mr. Musat did go

against a rate increase and I agree with you, Matt, on that but he also ask that the cabs be allowed to run on time and mileage and was adamant about the fact that the cars with the traffic on South Willow Street and Granite Street needed to run on time and mileage so he didn't oppose my total proposal. He only opposed the rate portion or the mileage portion of my proposal. I think Mr. Applebaum will say I am right on that. He did sit here and say that he wanted to run on time and mileage. Alderman Forest do you remember that portion of it?

Alderman Forest stated yes Mr. Applebaum was at the last meeting and the owners of Queen City Taxi did say that during rush hour on Granite Street waiting time should be in there but he also did say that if it was rush hour he would go around Granite Street so that solved that problem.

Deputy Clerk Normand stated with all due respect to Mr. DeSchuiteneer what was said and certainly we could delay this decision and at the next meeting bring the Musats back in here but what was said was they were against an increase, however, if there was going to be some kind of increase instituted they wanted to see time and mileage not just a flat across the board increase.

Alderman Smith stated you lease these taxicabs to individual drivers. What is their rate of pay? Do you know?

Mr. DeSchuiteneer responded they pay me a lease of \$120 and they fill up the car or put back the gas that they use because they take the cab full. What do they get paid? I can only estimate from what we are bringing in as far as my sheets go. If we are running three drivers on a Monday night they are doing well but if I am running eight drivers on a Monday night then they are making about \$60. It is pretty hard...like on a Friday night I run eight taxis and they make about...I run all eight on a Friday night and I would say they are making roughly between \$100 and \$125 for a 12 hour shift but that is the busiest night of the week.

Alderman Smith asked do you have liability insurance and workman's compensation.

Mr. DeSchuiteneer answered yes the state requires that we carry workman's compensation and the cabs do have liability insurance on them.

Chairman O'Neil called Mr. Applebaum forward to speak.

Louie Applebaum, Manchester stated it is kind of late so I am going to keep this as brief as I can. The original reason that we were here...I guess it was in September although it doesn't seem like it was that long ago but the reason we were here was a rate increase because of the price of gasoline. This afternoon I came down to see

Matt Normand and I had stopped over at the library and got a report from Triple A that he is handing out to you now. What this is is Triple A's media site for retail gasoline prices. It says that every day up to 85,000 self-service stations are surveyed and it is an interesting thing and a fact to me that a year ago the average price of gasoline was \$1.89 so I will round that off to \$1.90 and as of today the average is \$2.30. So if my math is right that is an increase from a year ago of 40 cents per gallon. As Mr. DeSchuiteneer alluded to and I think I will be a little bit more expansive, from Sunday until Wednesday the cabs are not burning the gasoline like they would on a Thursday, Friday or Saturday. On a Sunday until a Wednesday, you maybe burn between 7 to 10 gallons of gasoline, which if my math is right would cost the driver anywhere from \$2.80 to \$4.00 per shift. Now on a Thursday, Friday and Saturday, which are the exclusive nights that I happen to work after 15 years of driving a cab, I can burn 13, 14 or 15 gallons of gasoline, which will cost me \$5.20 to \$6 a night and on those three nights \$18. I am here to say that there isn't a cab driver, I believe, in this community that can't afford to pay for the gas and that is what we were here for initially. Atty. Buchholz did his homework; however, he had a couple of answers incorrect. Back in 2000 I was adamantly opposed, along with my friend, Dan O'Neil, to ever raising the drop rate from \$2 to \$3. It destroyed the business for a significant period of time but it was raised to \$3 and 25 cents for each 1/6 of a mile. However, it was prior to that 20 cents for each 1/6 of a mile and maybe for the barristers of the world and people that own businesses all of these nickels and dimes don't mean all that much but for the people that take the cabs in this community, for the people who are on fixed incomes and for people who have lost their licenses, there are a number of these people in what I still call blue collar Manchester. These are the people that take the cabs and if we continue to raise prices and I don't want to be insulting to Ken because I like Ken very much but this is just switching the tables. The last time he wanted to go from \$3 to \$4 and keep the 25 cents per 1/6 of a mile. Now if my math is right let's keep the \$3 and make the 25 cents per 1/10 of a mile so now we are at \$5.50. We are just disguising this a little bit but it is getting the same result done. Mr. Musat is not here this evening because he has been quite ill for the last month and he has had a lot of tests done. I spoke to him about an hour before I got here. There is no need for a rate increase. I am not a mathematician but Mr. DeSchuiteneer spoke of having eight cabs with licenses. I know every night he can't run the eight but if he ran the eight during the day and he ran the eight at night and his drivers did the right thing the revenue would come up to close to \$2,000 in a day. I don't have to go on and on with these numbers but worst case scenario, Mr. DeSchuiteneer is taking in the kind of numbers that would afford him the opportunity to run a business. I don't run the business. I drive a cab and there is a good reason why I don't own the business. First of all, I don't want to work seven days a week. There is a tremendous amount of responsibility that comes with this but passing on the cost to the consumer is not the right thing to do. There were people here tonight that talked about opening a

bar. We could use so many more cabs in this town. There are constraints, there is no doubt, but to put the prices at a place where people will just use ulterior ways of getting around like asking their friend to give them a ride that doesn't have insurance and I will pay you a little gas money. We need to have this Committee. We need to have regulations and to change them every six months or every year, I don't see that as a positive thing. It was a traumatic thing to go from \$2 to \$3. Traumatic. As it is now when a person gets into a cab that is not a frequent flyer and sees it come up as \$3 some of them are confused. They are baffled by this. You know if you go into the bigger metropolitan cities I suspect they have a smaller drop rate because they have millions of people and you can't compare Portsmouth that has 25,000 people and Manchester that has 100,000 people. This is comparing all of these different things. We are a community that is 45 minutes north of Boston and we have many people who use the cabs for many different reasons. Ken DeSchuiteneer has been in this business for a long, long time. Not necessarily as an owner but he has been around this business for a long time and the name of the game with this business in my opinion and he may think differently but it is it do it on a volume basis. If you continue to raise the prices then a lot of the business goes away into areas that aren't necessary. I am 100% against any rate increase. I am against really a time and mileage thing because all I can see it being done as right now is some way for a driver to gouge a customer. I don't believe it would be something done in good faith and the worst time for this traffic is from 7 AM until 9 AM and from 3 PM until 7 PM. This isn't a constant. We don't have a community here where it is a constant. So as Alderman Forest alluded to there are alternative ways to get through the town. There is the Bridge Street Bridge, the Granite Street Bridge, and the Queen City Bridge. When the mall is congested we can drop younger people off at the back gate. These are things we have to adjust to all of the time but to pass on the price and to continue to say...and the initial reason we were here was because of the price of gasoline. This here from Triple A shows that the price has really not increased all that much. I thank you for listening to me and if there are any questions I will try to answer them.

Chairman O'Neil stated this isn't a debate between the driver and the owners. You had an opportunity to present your information. Can you be quick and to the point? This is not a debate.

Atty. Buchholz stated there are a few things that Mr. Applebaum said that are simply false. We were not asking for a drop charge increase from \$3 to \$4 the last time we were here and there is nobody that was requesting that. I don't know where that came from. The other thing is that he is saying that we are in here asking for an increase every six months. It has been six years and at the time of the last increase the only thing that increased was the drop rate charge. Everything

else remained the same. Nothing else changed. For those of you that were on the Committee you can remember that, particularly you Chairman O'Neil.

Alderman DeVries stated we were talking about whether we need to hear from the other owner. I think we can satisfy that by getting a copy of the minutes if we need that. We are probably ready to vote on this tonight but that might be a way to do it if the other owner is ill.

Alderman Smith stated that was my intention. I would like to have the other owner in unless you have the minutes to the previous meeting. I am new to this Committee.

Chairman O'Neil responded I wasn't on the Committee previously either.

Deputy City Clerk Johnson stated we can do that if you want to table this.

Chairman O'Neil asked Matt do you have any further information on Mr. Musat.

Deputy Clerk Normand answered nothing that I haven't already stated.

On motion of Alderman DeVries, duly seconded by Alderman Smith it was voted to table this item.

Chairman O'Neil addressed Item 7 of the agenda:

Ordinance:

"Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new chapter 94: Noise Regulations."

Alderman Forest stated I recall on this something about a decibel level change.

Deputy Clerk Normand stated there is a whole chart in here that has decibel levels for different areas of the City.

Alderman Forest stated I can't remember what the number was but there were some decibel levels and I am not sure that is what I am reading here. One of the decibels was for concerts.

Deputy Clerk Normand responded there was a conflict with another ordinance that was passed for concerts and outside entertainment. There was a conflict because some of that language was left in the ordinance that you see here tonight. That was removed and the ordinance was cleaned up by the Solicitor's Office.

Chairman O'Neil asked Matt was this a housekeeping...

Deputy Clerk Normand interjected yes it was.

Alderman Forest stated I know the decibel level that was originally there...I mean I talk louder than what that decibel level was.

Alderman DeVries stated I appreciate that the portions at the rear of this ordinance have been cleared up but it does not take care of the problem that I have with blanket exemptions, which was the ground noise at the Airport that is being given a blanket exemption meaning that there is no local control should there be some sort of a new use. I am adamantly opposed to that as a blanket exemption. I do think that we can look at that on a one by one basis should there be some new use coming to the community. It is just not a fair way to deal with that for the south end of Manchester to make that a blanket exemption.

Chairman O'Neil responded if I recall Alderman the only reason this was ever sent back was for some housekeeping. That issue regarding the idling planes...not specifically this Board but the past Board had numerous discussions about that so I believe it was only sent back to do some housekeeping where there were conflicts.

Alderman DeVries replied I am sure that that is correct that it was sent here for that purpose. That doesn't mean that it is going to get any more support from me this time than last time because of that exemption.

Chairman O'Neil stated my point being I hope we weren't going to revisit this whole thing again because this has been around too long.

Deputy Clerk Normand stated I was just going to add if you recall or Alderman Forest may recall that there was a Noise Variance Board that was created in the other version and the Committee wanted that tailored so that it was actually the Committee on Administration that became the Noise Variance Board. That was cleaned up. There were some direct conflicts with 111.71, which talks about outdoor entertainment discharge \$300 whereas the other one charged \$200. There were numerous conflicts in this.

Chairman O'Neil stated this thing has been kicked around...

Deputy Clerk Normand interjected since Alderman Roy was Chairman of Bills on Second Reading.

Chairman O'Neil stated I know that people don't like all parts of this but we need to move something along here.

Alderman Forest moved to approve the ordinance and refer it to the full Board of Mayor and Aldermen. Alderman Smith duly seconded the motion. Chairman O'Neil called for a vote. The motion carried with Alderman DeVries being duly recorded in opposition.

TABLED ITEM

8. Communication from Thomas Arnold, Deputy City Solicitor, providing an update on the status of cable casting origination points.

This item remained on the table.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman DeVries it was voted to adjourn.

A True Record. Attest.

Clerk of Committee